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RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

Written statement submitted by the Federación de Asociaciones de Defensa y Promoción de los Derechos Humanos, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[18 March 1998]

GE.98-11329 (E)

1. The Federación de Asociaciones de Defensa y Promoción de los Derechos Humanos would like to express its concern with respect to the human rights situation in Turkey, where human rights violations continue as before.

2. A number of national and international organizations regularly document serious human rights abuses in Turkey. A great many cases of individual complaints have been received by the European Commission on Human Rights and the European Court of Human Rights; almost all of the cases are related to arbitrary detentions, torture, forced evictions, disappearances under detention, extrajudicial executions and killings by unidentified assailants. Turkey is obliged to account for these widespread human rights abuses. Between 1990 and 1996, a total of 1,389 individual complaints were filed with the European Commission, of which 133 were declared admissible and 274 inadmissible.

3. None of the successive Governments could provide true and lasting measures to prevent human rights violations. Turkey has all the institutions which are required for a democratic country: legislature, executive, judiciary, etc. The legislative and executive are constituted through elections held every five years in line with the Constitution of the Republic of Turkey. In view of the ongoing undemocratic measures applied by the Turkish Government, it is quite impossible to sustain the claim that Turkey is a democratic country. The reason why human rights violations are so extensive is that the reality is totally different from what appears on the surface.

4. Turkey has a Constitution like many democratic countries have. However, this Constitution was formulated by the generals who took power in the wake of the 12 September 1980 military coup. In other words, it is completely anti-democratic. Turkey, in fact, is ruled not by the Government or the Parliament, but the National Security Council (NSC), which is a part of the Constitution - usually not found in democracies. Even though the decisions taken by the NSC - which is composed of the Chief of the General Staff and the General Commanders of the Land, Sea, Air and Gendarmerie Forces - are "advisory"; in practice, Parliament has to abide by any of their decisions. None of the duly elected Governments has been able to be "in power". In the history of the Turkish Republic, what is permanently "in power" is the NSC. In other words, those duly elected are not powerful, but the generals are.

5. There are about 15 million Kurds living in Turkey. East and south-east Turkey have been governed under martial law and, since 1987, this region has been governed by a state of emergency regime. There are seven provinces still under a state of emergency. Although the state of emergency was lifted in some provinces, one cannot observe any indication that "ordinary" life prevails.

6. A resolution of this vital question is being sought by military means. During clashes civilians are targeted and settlement areas and forests burnt down. So far nearly 3 million Kurds have been forcibly displaced. According to a statement made in July by Deputy Prime Minister Bulent Ecevit, 3,185 villages and hamlets have been evacuated. A report prepared at the request of the United States Congress states that the Turkish Government pursues a forced eviction policy. Food embargoes are conducted in many provinces and townships. The International Committee of the Red Cross is not

allowed access to the region to monitor the situation. Having armed 65,000 Kurdish villagers, the Government established a village guard system. A total of seven political parties which included a solution to the Kurdish question in their programme have so far been closed down; the Chairman and other senior officials of the People's Democracy Party (HADEP) were put in prison for 10 months.

7. Despite the number of legal changes that have taken place in Turkey in the past year, including the lifting of the state of emergency in three Kurdish provinces and amendments to the Criminal Code including shortening detention periods without judicial supervision, it has been documented that the human rights of the Kurdish people continue to be violated by the Turkish State. Turkey's current human rights record is poor because, although legislative reforms have been initiated and should be seen as a positive step, in practice the Turkish Government still routinely ignores its international obligations under the guise of combating "separatist activity".

8. In May 1997, and again in September 1997, over 50,000 Turkish troops crossed the border into northern Iraq. This incursion into South Kurdistan resulted in a large number of villages being destroyed and unconfirmed reports (due to media restrictions) of a large number of civilian casualties. This is a clear violation of humanitarian law and international human rights law.

9. In addition to these human rights abuses, the Turkish State has also used the law as a means of suppressing expressions of identity. The Turkish constitutional provisions ensuring the "indivisible unity of the territory and nation of the Turkish State" form the basis of numerous laws aimed at the suppression and assimilation of the Kurdish people.

10. Over the years the Turkish authorities have insisted that the long-drawn-out armed conflict with the Kurdish Workers Party (PKK), in the Kurdish region of the country is to be defined as terrorism which threatens the integrity of the State. The Government repeatedly says that the incidents in which civilians are victims are either the responsibility of terrorist groups or occur legitimately in the context of the struggle against terrorism. The Kurds insist that there is an underlying political reality which is not being addressed: that of recognition of the ethnic Kurdish minority. Rather than coming to terms with the fact of the different cultural and ethnic identity of its Kurdish reality through accommodation, Turkey is seeking to suppress it by military means. The problem is compounded by the absence of political dialogue and democratic processes to resolve the conflict between the parties.

11. The European Court of Human Rights in 1996 and 1997 ruled in favour of a number of Kurdish applicants. On 16 November 1996 the Court delivered a judgement in the first Kurdish case concerning the destruction of villages to come before it. In Akdivar v. Turkey, the Court found Turkey in breach of articles 8 and 25 of the European Convention and article 1 of protocol No. 1. In December 1996 the Court held that the Kurdish applicant (Aksoy v. Turkey) had been subjected to torture while in custody and that his arms were paralysed as a result. In the Aksoy case, it found Turkey in violation of article 3 (prohibition of torture) and articles 6 and 13 (lack of effective remedies). In a judgement delivered in Strasbourg on 25 September 1997 in the

case of Aydin v. Turkey, the Court held that Ms. Aydin had been subjected to torture through being raped and otherwise ill-treated while being detained by the Turkish security forces, contrary to article 3, of the Convention. In this case the Court found that the rape of a detainee by an official of the State was an especially grave and abhorrent form of ill-treatment of such a serious nature as to amount to torture. The Court furthermore held that the Turkish authorities had failed to carry out a thorough and effective investigation into Aydin's complaint that she had been raped and that there were no effective remedies available to address her complaint.

12. Another judgement on the issue of the destruction and burning of villages was delivered by the Court on 28 November 1997 in the case of Mentes and Others v. Turkey. The applicants (villages) alleged that the Turkish security forces had carried out an operation after an attack by the PKK on the Ucdamlar gendarme station on 23 June 1993. On the evening of 24 June 1993, the gendarmes arrived by helicopter in the area surrounding Saggoze and, on the following morning, entered the village and assembled people from part of the village in front of the school. They then carried out searches in that part of the village and proceeded to burn down 10 to 13 houses and, in a separate incident, also started to burn another part of the village. The applicants were forced to leave the village and now live in Diyarbekir. The remaining inhabitants of the village left in the autumn of that year and, by March 1994, the entire area seems to have been burned, devastated and depopulated.

13. We therefore call on the Commission on Human Rights:

(a) To consider how the unrepresented status of the Kurds can be remedied;

(b) To seek implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities in order to achieve a balance between the legitimate sovereign requirements of the States in the region and the rights of the Kurdish people to free cultural expression and a genuine measure of control over their own affairs;

(c) To encourage a political solution to the Kurdish question. Thus the United Nations should consider how the wish, expressed in Security resolution 688 (1991) of 5 April 1991, "that an open dialogue will take place to ensure that the human and political rights of all Iraqi citizens are respected", can also be applied in Turkey;

(d) To use all possible mechanisms to monitor the situation in Turkey and in particular to appoint a special rapporteur to undertake an investigation into documented human rights violations in Kurdistan.

14. Intergovernmental and non-governmental organizations should assist north-west Kurdistan with regard to its acute underdevelopment, large-scale human displacement and its widespread human rights violations, in particular by providing support to local human rights organizations.